

1 MATTHEW THOMSON, ESQ., *Will comply with LR IA 11-2 within 14 days*
2 ADELAIDE PAGANO, ESQ., *Will comply with LR IA 11-2 within 14 days*
3 LICHTEN & LISS-RIORDAN, PC
4 729 Boylston Street, Suite 2000
5 Boston, MA 02116
6 Telephone: (617) 994-5800
7 Facsimile: (617) 994-5801
8 mthomson@llrlaw.com
9 apagano@llrlaw.com

10 KRISTINA L. HILLMAN, ESQ., Nevada Bar No. 7752
11 SEAN W. McDONALD, ESQ., Nevada Bar No. 12817
12 WEINBERG, ROGER & ROSENFELD
13 A Professional Corporation
14 3199 E. Warm Springs Rd, Ste 400
15 Las Vegas, NV 89120
16 P: (702) 508-9282
17 F: (510) 337-1023
18 nevadacourtnotices@unioncounsel.net
19 khillman@unioncounsel.net
20 smcdonald@unioncounsel.net

21 *Attorneys for Plaintiff Brittany Strauss*

22 UNITED STATES DISTRICT COURT

23 DISTRICT OF NEVADA

24 BRITTANY STRAUSS, and on behalf of herself) CASE NO.:
25 and similarly situated individuals,)
26 Plaintiff,) CLASS AND COLLECTIVE ACTION
27) COMPLAINT
28 v.)
I.K.M.J. JOINT LLC d/b/a/ GIRL)
COLLECTON, and FLOYD MAYWEATHER,)
Defendants.)

29 **INTRODUCTION**

30 1. Plaintiff Brittany Strauss brings this class and collective action behalf of herself and
31 all other exotic dancers who have worked at I.K.M.J. JOINT LLC d/b/a/ GIRL COLLECTON,
32 (“Girl Collection”), which is, upon information and belief, owned and managed by Defendant

1 Floyd Mayweather. Plaintiff brings this case under the Fair Labor Standards Act of 1938, as
 2 amended, 29 U.S.C. § 201 *et seq.* (“FLSA”) and Nev. Const. art. 15, § 16. Plaintiff alleges that
 3 Defendants have misclassified their exotic dancers as independent contractors rather than
 4 employees, have failed to pay them minimum wage for hours worked, and have required dancers to
 5 pay fees and tip-outs in violation of the FLSA.

6 **PARTIES**

7 2. Plaintiff Brittany Strauss is a resident of San Joaquin County, California. Strauss
 8 worked as an exotic dancer at I.K.M.J. JOINT LLC d/b/a/ GIRL COLLECTON, a business
 9 organization doing business at 2580 S Highland Dr, Las Vegas, NV 89109, from approximately
 10 2018 to 2023.

11 3. Defendant I.K.M.J. JOINT LLC d/b/a/ GIRL COLLECTON is an establishment
 12 where live topless, semi-nude or partially clothed dance entertainment is presented to adult
 13 members of the general public, hereinafter referred to as “Girl Collection.” Defendant Girl
 14 Collection is located at 2580 S Highland Dr, Las Vegas, NV 89109.

15 4. Defendant Floyd Mayweather is an owner-operator of Defendant by I.K.M.J. JOINT
 16 LLC d/b/a/ GIRL COLLECTON. He directs the operations of I.K.M.J. JOINT LLC’s business and
 17 is directly involved in its employment decisions related to dancers such as Plaintiff.

18 **JURISDICTION AND VENUE**

19 5. The court has subject matter jurisdiction under 29 U.S.C. § 201 *et seq.* (Fair Labor
 20 Standards Act) and 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1337 (supplemental
 21 jurisdiction).

22 6. Venue is proper in the District of Nevada because the defendants are located in
 23 Clark County, in this judicial district, and because the events giving rise to the Complaint took
 24 place in Las Vegas, Nevada, in this judicial district.

25 **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

26 7. Plaintiff brings this action individually and as a collective action pursuant to 29
 27 U.S.C. § 216(b), on behalf of a collective of all individuals who worked as exotic dancers at Girl
 28 Collection at any time within the three years prior to joining this lawsuit, who were misclassified as

1 independent contractors and who were not paid minimum wage as required by the Fair Labor
 2 Standards Act, and were subject to unlawful kick-backs under the FLSA.

3 8. Plaintiff attaches as Exhibit A her Notice of Consent to Become a Party Plaintiff in a
 4 Collective Action under the Fair Labor Standards Act.

5 9. Defendants employ individuals engaged in commerce or in the production of goods
 6 for commerce and/or handling, selling, or otherwise working on goods or materials that have been
 7 moved in or produced in commerce by any person, as required by 29 U.S.C. §§ 206-207.

8 10. Defendants' annual gross volume of sales made or business done exceeds \$500,000.

9 11. Plaintiff also brings this action individually and as a class action pursuant to Rule 23
 10 of the Federal Rules of Civil Procedure under the Nevada state constitution, on behalf of all
 11 individuals who currently work as exotic dancers, or previously worked as exotic dancers, at Girl
 12 Collection at any time between two (2) years prior to the filing of this lawsuit and the entry of
 13 judgment in this case.

14 12. This action on behalf of the Rule 23 class satisfies the requirements of Fed. R. Civ.
 15 P. 23(a), as alleged in the following particulars:

- 16 a. The proposed class is so numerous that joinder of all individual members in this
 17 action is impracticable.
- 18 b. There are questions of law and/or fact common to the members of the proposed
 19 class regarding; (1) Defendants' conduct in classifying exotic dancers as
 20 independent contractors; (2) failing to ensure they are paid at least minimum wage
 21 for their work, and (3) effectively making illegal deductions from their wages by
 22 keeping a percentage of the dancers' tips that are paid by customers and uniformly
 23 requiring dancers to pay a portion of their tips to managers and other non-service
 24 employees.
- 25 c. The claims of Plaintiff are typical of the claims of the proposed class and they have
 26 the same interests as the other members of the class; and
- 27 d. Plaintiff will fairly and adequately protect the interests of the class as she has
 28 retained able counsel experienced in class action litigation, and her interests are

1 coincident with, and not antagonistic to, the interests of the other class members.

2 13. In addition, this action satisfies the requirements of Fed. R. Civ. P. 23(b), because
 3 the questions of law and/or fact common to the members of the proposed class predominate over
 4 any questions affecting only individual members, and a class action is superior to other available
 5 methods for the fair and efficient adjudication of the controversy because joinder of all class
 6 members is impractical. The class is readily definable and prosecution of this action as a class
 7 action will eliminate the possibility of repetitive litigation. There will be no difficulty in the
 8 management of this action as a class action.

9 **FACTUAL ALLEGATIONS**

10 14. Plaintiff and other exotic dancers who worked at Girl Collection performed dances
 11 on stage, private dances, and VIP room or “den lounge” dances for Defendants’ customers.
 12 Specifically, dancers may receive tips while dancing on stage as part of a mandatory stage rotation.
 13 They may also receive tips while performing private dances customers, alone or alongside other
 14 dancers. These tips are typically paid in the form of “bag money”, in which customers pay the club
 15 for a bag of \$1 bills, which they give to the dancer(s) while they perform their private dance(s).
 16 Dancers may also receive tips for private dances performed for customers in the “dim lounge” or
 17 VIP Room.

18 15. Defendants have misclassified their exotic dancers as independent contractors, when
 19 in reality they are employees.

20 16. Defendants have exercised extensive control over the manner in which its exotic
 21 dancers perform their jobs and conduct themselves while on the club’s premises, including how
 22 much they can receive for private dances and VIP sessions, how they dress and perform on stage,
 23 and other rules. For instance, Defendants prohibit dancers from straddling customers during a lap
 24 dance and require that they keep one foot on the floor at all times during lap dances. Likewise,
 25 Defendants require that dancers participate in a stage rotation, which requires them to dance on
 26 stage frequently throughout their shifts and require that dancers remove their top by the second
 27 song on stage. Defendants also control the dress code; dancers are not permitted to wear pasties
 28 while working at the club and must wear two pairs of underwear at all times. Dancers are not

1 permitted to chew gum on the premises and cannot smoke, eat, or use their cell phones on the main
 2 floor around customers.

3 17. Defendants communicated these rules and requirements to dancers by posting signs
 4 at Girl Collection and communicating with dancers extensively through group chats and group
 5 messaging platforms to discuss the Club's requirements. Specifically, Defendant Mayweather has
 6 directed Plaintiff and other dancers regarding how to perform their jobs, both via group chats and
 7 in person. Defendant Mayweather is frequently at the club, directing Plaintiff's work, and even
 8 when he is not present, he is in close communication with managers at the club. Defendant
 9 Mayweather decides when dancers can leave for the night, and he often decides how much of
 10 dancers' tips will be retained by the club for a given shift.

11 18. Dancers have no control over the customer volume, advertising, or atmosphere at
 12 the club, which is controlled entirely by Defendants.

13 19. Defendants retain the power to hire and fire the exotic dancers and have disciplined
 14 or threatened to discipline dancers who do not comply with Defendants' requirements or who break
 15 the rules.

16 20. At all relevant times, Girl Collection dancers have not held themselves out to be in
 17 business for themselves. Instead, the dancers are economically dependent on their relationship with
 18 Defendants for a substantial portion of their earnings.

19 21. In addition, Girl Collection is in the business of providing adult entertainment to its
 20 patrons. Thus, the dancers clearly perform services in the usual course of Defendant's business, and
 21 without the dancers, Girl Collection would have no business, such that the dancers' work is integral
 22 to Defendant's business.

23 22. At all times relevant to this Complaint, Defendants have treated Plaintiff and other
 24 dancers in a substantially similar manner with respect to their policies and practices.

25 23. At all relevant times, the federal minimum wage has been \$7.25 per hour.

26 24. The upper-tier minimum wage in Nevada has been between \$8.25 and \$10.50 during
 27 the relevant time period.

28 25. Defendants did not pay the exotic dancers who have worked at Girl Collection the

1 minimum wages required by state and federal law (or any wages).

2 26. Instead, the exotic dancers who have worked at Girl Collection receive
3 compensation only in the form of gratuities from patrons, paid for dancing on stage, performing
4 private dances, or dancing in the VIP Room or “den lounge”, and only in the amounts that
5 Defendants unilaterally determine. Indeed, Defendants collect and record all cash tips paid to
6 Plaintiff and other exotic dancers, including tips paid while they are dancing on stage and “bag
7 money” that is paid while they are performing private dances for customers. Defendants disburse
8 only a portion of those cash tips to the dancers. In some cases, Defendants keep Plaintiff’s tips
9 overnight and require that they return to collect them the next day or forfeit them entirely to the
10 club. Plaintiff and other dancers have been required to share a portion of all of their tips with the
11 club.

12 27. In order to perform their job, the dancers have been required to pay “house fees” to
13 Defendants in an amount between \$100 and \$200 for every shift, depending on what time they
14 arrive. Defendants unilaterally determines how much Plaintiff and other dancers must pay in order
15 to work, and they must pay their fees when they clock in at the start of each shift.

16 28. Plaintiff and other dancers have also been required to share their tips with managers
17 and non-service employees or agents of Defendants, such as “house moms” and disc jockeys.
18 Plaintiff and other dancers must pay \$40 at the end of each shift to these individuals from their tips
19 before they are permitted to leave at the end of their shift.

CLAIMS FOR RELIEF

Count I: Minimum Wage under the FLSA

22 29. Plaintiff incorporates by reference the previous paragraphs of the Complaint.

23 30. Pursuant to 29 U.S.C. § 206, an employer must pay employees at least the minimum
24 wage for all hours worked.

25 31. The Defendants failed to pay Plaintiff and collective action members the minimum
26 wage as required by 29 U.S.C. § 206. Further, Defendants are not permitted to take the tip credit
27 against the minimum wage (and thus pay the reduced hourly rate for tipped employees of \$2.13 per
28 hour) because they did not provide the required notice to the dancers in order to take the tip credit

1 and because the dancers have not been allowed to retain all tips they have received, but instead
 2 have been required to share their tips with management and with other employees or agents of
 3 Defendants who are not among employees who customarily and regularly receive tips, and not
 4 pursuant to a valid tip pooling or sharing arrangement under applicable law.

5 32. Defendants' misclassification of dancers as independent contractors when they were
 6 really employees was knowing, willful, and intentional. Defendants knew or should have known
 7 that Plaintiff and the other dancers, performing the same job functions, were being improperly
 8 misclassified as independent contractors given the wealth of case law that has concluded that
 9 similarly situated exotic dancers are employees of the clubs for which they work.

10 33. Plaintiff and the members of the proposed collective are also entitled to liquidated
 11 damages equal to the amount of unpaid minimum wages due to them under the FLSA, pursuant to
 12 the FLSA, 29 U.S.C. § 216(b).

13 **Count II: Unlawful Retention of Tips and Kickbacks under the FLSA**

14 34. Plaintiff incorporates by reference the previous paragraphs of the Complaint.

15 35. 29 U.S.C. § 203(m)(2) provides that “[a]n employer may not keep tips received by
 16 its employees for any purposes, including allowing managers or supervisors to keep any portion of
 17 employees' tips, regardless of whether or not the employer takes a tip credit.”

18 36. The house fees and mandatory tip-outs that Defendants required from Plaintiff and
 19 the members of the collective constitute unlawful “kick-backs” to an employer under the FLSA and
 20 violated Plaintiff's and collective action members' rights to retain all of their tips, 29 U.S.C. §
 21 203(m).

22 37. The unlawful kickbacks and unlawfully withheld tips required by Defendants were
 23 obtained knowingly, willfully, intentionally, or in bad faith.

24 38. Plaintiff and the members of the collective are entitled to an award of back pay for
 25 all unlawful kickbacks and all amounts of tips withheld by Defendants.

26 **Count III: Failure to Pay Minimum Wage Required by the Nevada Constitution**

27 39. Plaintiff incorporates by reference the previous paragraphs of the Complaint.

28 40. Pursuant to Nev. Const. art. 15, § 16, an employer “shall pay a wage to each

1 employee of not less than the hourly rates" required by state law.

2 41. Defendants failed to pay Plaintiff and Class Members the State minimum wage
3 during the statutory period because they did not pay Plaintiff any wages at all.

4 42. Plaintiff and Class Members are owed the upper-tier minimum wage for all hours
5 worked because Defendants did not provide them with qualifying health insurance benefits.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for the following:

8 a. An order authorizing the sending of appropriate notice to current and former exotic
9 dancers of Defendants who are potential members of the collective action under the Fair Labor
10 Standards Act, giving them the opportunity to opt-in to this action;

11 b. A declaratory judgment that Defendants have willfully and in bad faith violated the
12 minimum wage provisions of the FLSA, and has deprived Plaintiff and the members of the
13 collective of their rights to such compensation;

14 c. A declaratory judgment that the Plaintiff and collective/class members are
15 employees, not independent contractors under the FLSA;

16 d. Certification of a class pursuant to Fed. R. Civ. P. 23;

17 e. An order requiring Defendants to provide a complete and accurate accounting of all
18 the wages to which Plaintiff and members of the class are entitled;

19 f. An award of monetary damages to Plaintiff and members of the collective in the
20 form of back pay for unpaid minimum wages, together with liquidated damages in an equal amount
21 under the FLSA;

22 g. An award of monetary damages to Plaintiff and members of the class in the form of
23 back pay and damages under Nev. Const. art. XV, § 16;

24 h. Attorneys' fees and costs;

25 i. An award of prejudgment interest, if available; and

26 / / /

27 / / /

28 / / /

1 j. Such further relief as the Court deems just and proper.

2 Date: March 23, 2023

Respectfully submitted,

3 
4

5 KRISTINA L. HILLMAN, ESQ., Nevada Bar No. 7752
6 SEAN W. McDONALD, ESQ., Nevada Bar No. 12817
7 WEINBERG, ROGER & ROSENFELD

8 A Professional Corporation
9 3199 E. Warm Springs Rd, Ste 400
10 Las Vegas, NV 89120

11 P: (702) 508-9282
F: (510) 337-1023
12 Email: nevadacourtnotices@unioncounsel.net
13 khillman@unioncounsel.net
14 smcdonald@unioncounsel.net

15 Matthew Thomson,
16 *Will comply with LR IA 11-2 within 14 days*
17 Adelaide H. Pagano,
18 *Will comply with LR IA 11-2 within 14 days*
19 LICHTEN & LISS-RIORDAN, P.C.
20 729 Boylston Street, Suite 2000
21 Boston, MA 02116
22 (617) 994-5800
23 Email: mthomson@llrlaw.com
apagano@llrlaw.com

24 Attorneys for Plaintiff
25 and the Proposed Class and Collective

26 155923\1350208